

**Report to:** PLANNING COMMITTEE  
**Date of Meeting:** 01 May 2019  
**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** The Ice House, Rock-a-Nore Road, Hastings, TN34 3DW  
**Proposal:** Proposed change of use from existing garage (ground floor of Block D) to Tapas restaurant (A3 use), including external alterations to front elevation.  
**Application No:** HS/FA/18/00850

**Recommendation:** Grant Full Planning Permission

**Ward:** OLD HASTINGS 2018  
**Conservation Area:** Yes - Old Town  
**Listed Building:** No

**Applicant:** Mr Murdoch per Westall Walker Associates  
Braybrook House 9 Holmsdale Gardens  
Hastings, East Sussex. TN34 1LY

**Public Consultation**

**Site Notice:** Yes  
**Press Advertisement:** Yes - Conservation Area  
**Letters of Objection:** 6  
**Petitions of Objection Received:** 1  
**Letters of Support:** 0  
**Petitions of Support Received:** 0  
**Neutral comments received** 0

**Application Status:** Not delegated - Petition received

**1. Site and Surrounding Area**

The application building is a new build 6 storey high property, plus basement, situated at the foot of East Cliff, below Hastings Country Park on the north side of Rock-a Nore Road. The Seafront car park is situated on the opposite side of the road.

Rock-a-Nore-Road is a narrow no-through road accessed from the main A259. Rock-a-Nore Road lies on the seaward side of the A259 which cuts it off from the Town Centre. At its (east) top end there is entrance to two large Seafront pay and display car-parks managed by Hastings Borough Council (HBC). The road to the front of the application property has parking

restrictions and double yellow lines to both sides. There are some loading bays.

Along Rock-a-Nore Road there are existing tourist businesses including the Fisherman's Museum (Grade II Listed Building), the Shipwreck Museum, the Blue Reef Aquarium, the Jerwood Art Gallery (Stade), East Cliff Railway (Grade II Listed Building) tourist attraction and the Historic Net & Tackle Stores (Grade II Listed). There are also a number of seafood restaurants, some residential dwellings and tourist shops, some of which are heritage assets. The cliffs to the rear form a natural barrier behind Rock-a-Nore Road, and the East Cliff Railway provides access to the green areas and Hastings Country Park at the top of the cliffs.

The site lies to the west of the Old Town, and is within the Old Town Conservation Area.

### Building History

The building comprises development approved under planning permission HS/FA/06/00978. This granted planning permission for the demolition of existing buildings, and construction of a 6 storey building, plus basement, comprising blocks A, B, C & D. The permission included a restaurant at ground floor with hotel and residential apartments above. The development was started and the residential apartments were developed and occupied. However, a proportion of the ground floor; the basement level extending below Blocks A, B and C; and all of Block A remained unoccupied. In 2017, planning permission was therefore granted for use of the ground and basement floors of Block A, B and part Block C for a mix of D1 Doctors Surgery and A3 Restaurant use, and the upper floors of Block A for D1 Doctors Surgery medical consulting rooms, and office use. This approved planning permission remains extant.

Block D has not been subject to a change of use from the original consent, and has a garage at ground floor level, approved under planning permission HS/FA/06/00978. It is this existing garage area that is the subject of this planning permission.

The garage has an internal gross floor area approximately 109.5sqm and is currently used as storage space for the freeholder. It is not used by any of the 14 apartments and is not available for residential parking. The garage has external access only from Rock-a-Nore Road via an automatic garage roller shutter. Internally there is a single side door to the buildings entrance hall/ stairway to blocks C/D.

### Constraints

Site is susceptible to Superficial Deposits Flooding

1 in 1000 event surface water floodrisk

Within Hastings Old Town Conservation Area

Within Hastings Historic Core Archaeological Notification Area

SSSI Impact Risk Zone (thresholds not exceeded)

AONB High Weald Area of Outstanding Natural Beauty

## **2. Proposed development**

The proposal is for change of use from existing garage (ground floor of Block D) to Tapas restaurant (A3 use), including external alterations to front elevation.

The proposed Tapas Bar would have a gross internal floor area measuring approximately 109.5sqm. Approximately 76sqm would be a customer seating area. At the rear two WCs would be fitted, one of which would be a disabled WC. A small 'kitchen' worktop area with kitchen hob and integrated domestic type extractor hood would be fitted over.

Agents Westall Walker Associates have submitted a letter stating the restaurant will receive a suspended ceiling below the existing concrete soffit which will be adequately insulated for sound.

The existing Rock-a-Nore Road garage access would remain the only access, but the security shutter would be set back by some 0.3m from the current shutter position and be open grille design. Behind the shutter there would be a screen of fully glazed folding doors. set back 1.6m.

The application is supported by the following documents:

Design & Access Statement

Site Waste Minimisation Statement

Heritage Statement

### **Relevant Planning History**

- HS/CD/18/00498 Discharge of condition 3 (elevations and sections of new windows and doors) of Planning Permission HS/FA/16/01010. Granted 13.08.2018
- HS/FA/16/01010 Use of the ground and basement floors of Block A, Block B and part Block C for a mix of D1 Doctors Surgery medical facility and A3 Restaurant use and the upper floors of Block A for D1 Doctors Surgery medical consulting rooms and associated office use. Granted 24.08.17
- HS/FA/16/00416 Use of Basement, Lower Ground Floor, and Ground Floor of Blocks A and B, including first - fifth floors of Block A for a mixed use comprising D1(Doctors Surgery with ancillary medical facilities including consulting rooms, dental consultant room and pharmacy), D2 (Gym/Dance Studio) and A3 (restaurant). Refused. 08.09.2016.
- HS/FA/12/00201 Proposed east elevation windows to 4th floor and 5th floor apartments. Granted 06.06.12
- HS/FA/10/00746 Amendments to existing planning consent:- HS/FA/06/00978 (construction of hotel & 14 flats). Granted 24.12.10
1. Building height - increase on height of ridge line.
  2. Hotel Front elevation window - design change to windows.
  3. Design change to sliding doors to blocks B,C & D.
  4. West elevation paint finish - colour change.
  5. Hotels and restaurant front terrace - glazed screen to be moveable.
  6. Louvred panel either side of garage door.
  7. Rainwater pipes exposed on front elevation.
- HS/FA/08/00214 Amendment to planning permission HS/FA/06/978 including:
1. Extension of existing basement to Ice House to provide service areas.

2. Infill space between blocks A & B at roof level.
  3. Extend rear wall of hotel closer to rear retaining wall.
  4. Change front elevation kitchen window to Block B to a sliding door.
- Granted 23.06.08

- HS/CA/06/01036 Demolition of the Ice House & construction of four blocks composed of a hotel (block A), restaurant & 14 no. apartments (B, C & D) (Application HS/FA/06/978 also applies). Granted 30.04.2007
- HS/FA/06/00978 Demolition of Tan House and Ice House. Construction of hotel and 14 flats Granted 30.04.07
- HS/FA/05/00872 Add additional floor (4th floor) to building, providing further 3 x 2 bedroom flats at 2nd floor level (additional to 6 no. maisonettes and 3 no. flats approved under ref HS/FA/05/00505. Refused 25.01.06
- HS/FA/05/00505 Conversion of Ice House to form 6 maisonettes and 3 flats behind retained and refurbished facade, including new windows and roof extension. Granted 15.08.05
- HS/CA/04/00684 Demolition of existing restaurant and redevelopment of site to provide 2 x shop units and 4 x3 bedroom maisonettes Granted 10.09.04
- HS/OA/04/00635 Demolition of existing restaurant and redevelopment of site to provide 2 x shop units and 4 x 3 bedroom maisonettes. Granted 10.09.04
- HS/LB/03/00119 To reinstate the original entrance and roof to the Ice House. GTD
- HS/FA/96/00062 Change of use from vacant garage to restaurant with flat above GTD
- HS/FA/94/00618 Change of use from Motor business use to residential. Use of ground floor as shop. Siting of caravan for use as fortune tellers business. GTD
- S/FA/88/01368 Use of forecourt as open market GTD

### **National and Local Policies**

#### Hastings Local Plan – Planning Strategy (2014)

Objective 7: Making best use of the Seafront and promoting tourism;

Policy FA5 - Strategic Policy for Eastern Area

Policy FA6 - Strategic Policy for The Seafront

Policy SC1 - Overall Strategy for Managing Change in a Sustainable Way

Policy SC7- Flood Risk

Policy E4- Tourism and Visitors

Policy EN1-Built and Historic Environment

#### Hastings Local Plan – Development Management Plan (2015)

Policy LP1 - Considering planning applications

Policy DM1 - Design Principles

Policy DM3 - General Amenity

Policy DM4 - General Access

Policy DM6 - Pollution and Hazards

Policy HN1– Development Affecting the Significance and Setting of Designated Heritage Assets (including Conservation Areas)

Policy HN2 – Changing Doors, Windows and Roofs in Conservation Areas

Policy CQ1– Cultural Quarters

#### Other Policies/Guidance

Supplementary Planning Document (SPD) - Shopfronts and Advertisements

Supplementary Planning Document (SPD) Parking Provision in New Developments (October 2013)

## National Planning Policy Framework (NPPF)

Paragraph 11 sets out a general presumption in favour of sustainable development and states that development proposals which accord with the development plan should be approved without delay.

Paragraph 12 of the NPPF states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Three dimensions of sustainability given in paragraph 8 are to be sought jointly: economic (by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation); social (providing housing, creating high quality environment with accessible local services); and environmental (contributing to, protecting and enhancing natural, built and historic environment) whilst paragraph 9 advises that plans and decisions need to take local circumstances into account, so they respond to the different opportunities for achieving sustainable development in different areas.

Section 12 of the NPPF sets out the requirement for good design in development. Paragraph 124 states: "The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Paragraph 127 of the NPPF requires that decisions should ensure developments:

- Function well;
- Add to the overall quality of the area for the lifetime of that development;
- Are visually attractive in terms of:
  - Layout
  - Architecture
  - Landscaping
- Are sympathetic to local character/history whilst not preventing change or innovation;
- Maintain a strong sense of place having regard to:
  - Building types
  - Materials
  - Arrangement of streets
- Optimise the potential of the site to accommodate an appropriate number and mix of development;
- Create safe places with a high standard of amenity for future and existing users

Paragraph 130 states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way that it functions. Paragraph 130 also seeks to ensure that the quality of an approved development is not materially diminished between permission and completion through changes to the permitted scheme.

Section 7 of the NPPF seeks to support the role that town centres play at the heart of local communities. Paragraph 85a advises that policies should define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.

Paragraph 106 states that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.

Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

### **3. Consultations comments**

#### **Conservation Officer - No Objection**

The proposed alteration to the external front elevation of the property (Block D) is unlikely to be harmful to the significance / character of the Heritage Assets (Old Town Conservation Area or the traditional fisherman net huts situated on the opposite side of Rock-a-Nore Road).

However, roller shutters of the type that are outlined as suitable for a retail use are detailed in the Supplementary Planning Document for Shopfronts and Advertisements:

'Where security shutters are necessary an open grille design should be considered. This design allows light from the premises onto the street outside normal opening hours and can help to maintain the attractiveness of the area. Shutters of this type also enable passers-by to see inside which can help to deter criminals further.' A revised design of roller shutter is required incorporating the open grille design.

A condition should be attached to ensure that the colour of the new restaurant shutter matches the window and door colour scheme of the recently approved application for windows and doors to the adjoining blocks

#### **Environmental Health - No Objection**

Environmental Health raise no overall objection but recommend a number of planning conditions to be attached to any approval. These are to cover further detail of the proposed extract and heating system with regard to noise and odour control and maintenance for any system installed. They also recommend conditions to restrict hours for deliveries and waste collection services, and details of noise mitigation and sound insulation measures.

A further comment from Environmental Health was made further to their site visit to the property. This states that having reviewed the further information submitted and met with the agent and owner on site, and given the level of cooking planned to be undertaken at present, the internal extraction planned would be suitable and satisfactory. However should the premises change owners and/or more complex cooking be undertaken, then a scheme for the fitting of odour control equipment to the building shall be submitted to and approved by the Local Planning Authority. The odour control equipment shall be maintained thereafter to the satisfaction of the Local Planning Authority.

#### **Sussex Police - Comment**

Sussex Police have a number of concerns that have arisen from the application. This arises from the mention of the word bar within an application for A3 restaurant and concern that these premises would be used as A4 vertical drinking, as Sussex Police would object to a bar at the above location. As such, they seek a condition to ensure this A3 Use is that only permitted, and also that opening hours be controlled.

Forward Planning / Policy - **No comment**

Tourism Officer - **No comment**

Estates - **No comment**

#### **4. Representations**

13 letters have been received from 7 different people, raising the following concerns:

- Impact on residential amenity
- Noise nuisance concern from customer and music.
- Bar could attract anti-social late night behaviour
- Nuisance from smokers using doorway.
- Cooking odours affecting C3 balconies above and objectors ask why is extraction not vented to roof level. Occupant of Flat No. 8 says there is no evidence of ducting/ ventilation shaft in N.E corner of apartment 8 (2<sup>nd</sup> fl).
- Adverse impact due to insufficient ventilation and noise measures.
- Unacceptable layout of internal space.
- Possible obstruction of narrow front pavement
- Tapas Bar not appropriate to character /local history of locality
- Parking / Loss of garages (garages never offered to residents of flats above). Residents argue garages are needed for residents of the flats to store bikes etc. They say the existing garage has been used by the freeholder and the owner of apartment 14. Other residents are paying £710 per year for parking on Rock-a-Nore car park. They point out that there is already high demand for Seafront parking during holiday times.
- Lack of Waste Storage space – no rear access door to garages – Residents ask how would waste container be lifted from basement level.
  
- Petition signed by 16 people received.
- "Residents of the Ice House object to the proposed conversion of the garage underneath Block D of the residential area to a Tapas Bar because it will:
  - Create a culture of people smoking and drinking in the street and blocking the resident's entrance in order to gain shelter from the elements;
  - Reduce the security of the access to the residential apartments;
  - Create extra noise into the late evening after the tourist attractions have closed;
  - Create noise generated in the bar and extraction systems;
  - Create extracted smells that may attract vermin to the rear of the apartments.

## 5. Determining Issues

The main planning issues in determining this application are the principle of development; the impact on residential amenity; impact on the character of the area / heritage asset (Old Town Conservation Area); loss of existing garage use /parking; need for tourism; and need to ensure suitable waste management.

### a) Principle

The site is in a sustainable town location, within the Old Town conservation area, the cultural quarter and the Seafront prime tourism area and the application is for an A3 restaurant and bar use and so is in accordance with policy LP1 Hastings Local Plan - Development Management (2015). In this respect and acceptable in principle subject to other local plan policies.

### b) Impact on Character and appearance of area/Conservation Area

The site lies within the Old Town Conservation Area and policies HN1 and HN2 of Hastings Development Management Plan, and policy EN1 of Hastings Planning Strategy, set policies protecting the significance and setting of heritage assets including conservation areas. In this case the external change proposed is to set the front shutter some 0.3m back from the existing position by the front pavement, and to replace it with a new open grille shutter. It would still have an internally fitted operating mechanism. The conservation officer was consulted and has raised no objection to this proposal provided that the proposed shop front shutter is an open grille shutter design, to comply with the shopfront and advertisement guidance set down in the SPD (listed above). The SPD guides that an open grille design allows light from the premises onto the street outside normal opening hours and can help to maintain the attractiveness of the area. Open grille shutters of this type also enable passers-by to see inside which can help to deter criminals and assist to design out crime. The applicant has submitted drawing 736-08A that shows the new restaurant shutter would be an open grille design.

The conservation officer also advises that a condition should be attached that the colour of new restaurant shutters match the window and door colour scheme of the recently approved windows and doors to the adjoining blocks of the building (planning reference HS/CD/18/00498). That consent required a black stained window and door finish.

Subject to open grille shutters being fitted, and a black finish, the conservation officer has no objection to this proposal as it would not be harmful to the significance or character of the heritage asset. The proposal therefore complies with policies that seek to protect and conserve the character and features of this Conservation Area.

It should also be noted that no signage or external lighting has been proposed, and any restaurant signage is likely to require a separate application for advertisement consent. These proposals would therefore be considered on their own merit, if an application were submitted.

### c) Tourism - Proposed A3 Restaurant Use

Objective 7 of the Planning Strategy supports the growth and development of the tourist industry in Hastings and seeks to spread tourist activity throughout the year. The strategic policy for the Seafront encourages the development of all year round tourist attractions to provide permanent jobs, and focuses on tourism improvements.

There are a number of existing tourist attractions along Rock-a-Nore Road that are named above at paragraph 1. In principle the proposed restaurant use is considered to complement existing tourist attractions and facilities at this end of the town. The restaurant will be a small facility for approximately 37 customer seating spaces and this small scale is appropriate to the small scale and character of the seafront cafe area.

The site and surroundings are part of the town's Cultural Quarter, subject to policy CQ1 which recognises the importance of cultural activities to the local economy and takes into account the effect of any development proposals on existing cultural activities which it expects to be protected. It encourages development which assists further expansion of their role as centres for cultural and related leisure and business activities and supports development that enhances the Cultural Quarter attraction to visitors. It is anticipated that the proposed restaurant use could enhance the tourist experience.

The site also lies within the Seafront area identified on Hastings Local Plan policies map as subject to spatial policy FA6 - Strategic Policy for the Seafront. Hastings Planning Strategy seeks to regenerate Hastings using the seafront as the area's best asset where tourism and environmental improvements are of prime importance. In principle the proposed restaurant in this location may be supported as complying with these tourism and cultural policies.

#### d) Loss of existing garage use / parking and highway safety

There have been objections received from residents of the apartments that the garage spaces were never offered to residents of the flats. It is this garage which is now proposed for conversion to A3 Use.

The garage is a self-contained space independent of the residential use above and the adjoining A3 / D1 use. There is nothing to prevent the freeholder from using the garage as his own garage storage space. There is no planning condition that the garage is to be used for car parking by residents of the apartments above, and as such the loss of this private garage space is not substantially material to this application. Furthermore, the objections that the garage has only been used by the freeholder is a private legal issue which cannot be resolved by the planning system, or this current application. The proposal is considered to make no significant difference to the existing car-parking arrangements for this property, due to its current use.

Policy DM4 of Hastings Development Management Plan requires new development to comply with the parking standards set out in the adopted Parking Provisions SPD (listed above). It is estimated that the proposed restaurant use may give rise to parking demand for approximately 15 customer parking spaces, plus 1 space per 2 full time staff. There is no private off-street parking for this proposal, however the site is within walking distance of the town centre and there are bus services along the Seafront A259. The seafront has a large car park for use by tourist visitors to Hastings, so the lack of private parking for this proposal is not considered unacceptable in this location. The proposed restaurant as discussed above is also considered to be within tourism uses, and so use of the seafront car park by its customers is not considered to conflict with the purpose of the car parking for tourism.

The NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In this case, it is anticipated that during the

holiday season the restaurant and bar would mainly attract beach-goers and passing trade from pedestrians and tourists visiting other tourist attractions in this locality. Outside of the holiday season there would be spare capacity for out-of-season customers to use the Seafront car park. The highway impact is therefore not considered to be unusual or out of character with other development in the town, thus does not cause an unacceptable highway impact.

#### e) Impact on Neighbouring Residential Amenities

Policy DM3 of Hastings Development Management Plan requires new development to avoid any adverse impact on the amenity of neighbouring properties. And Policy DM6 - Pollution and Hazards of the Hastings Development Management Plan seeks to protect human health and development will only be permitted provided that light pollution, airborne pollutants, noise and odour that are detrimental to neighbouring and local amenity are assessed / mitigated and appropriate pollution control measures are incorporated. In this case there have been a number of objections from residents of the flats above regarding possible noise nuisance and cooking odours from the proposed restaurant.

In response to the objections received the Agents Westall Walker Associates have submitted a letter stating that there will be no need for heavy extraction fans or large section ductwork as there will be very limited cooking facilities. An integrated domestic type extraction facility is proposed. They also state that the restaurant will receive a suspended ceiling below the existing concrete soffit which will be adequately insulated for sound.

The Environmental Health Team has been consulted and their initial received comment was that there was little detail provided on the extraction system with regard to noise and odour control, and they recommend that a planning condition be attached that all odour control and noise insulation are to be carried out to the satisfaction of the Local Planning Authority. Conditions were also recommended on noise, and waste collection, as well as giving some informatives about associated environmental health legislation around this use.

A further comment from Environmental Health was made after their site visit to the property, and meeting with the agent and owner on site. They stated that given the level of cooking planned to be undertaken at present, the internal extraction planned would be suitable and satisfactory. However should the premises change owners and/or more complex cooking be undertaken, then a scheme for the fitting of odour control equipment to the building shall be submitted to and approved by the Local Planning Authority.

Notwithstanding this comment, the lack of sufficient information and guarantee of the type of food to be prepared, cooked and served means it is necessary to include submission of details of suitable food extraction as a planning condition from the outset. This will protect the amenity of neighbouring occupiers from the start of any A3 Use.

Sussex Police have also been consulted, and raise initial concern at the use of the property as a vertical drinking establishment. Subsequent to this, the description of the development has been slightly changed from 'Tapas restaurant and bar' to 'Tapas restaurant'. The application was made for A3 restaurant use and the removal of the word 'bar' takes away any doubt that the application is for A3 restaurant use only.

Sussex Police also comment that the proposed opening times would be acceptable to the police, but ask that the opening times be subject to a restrictive planning condition.

Subject to conditions, as requested by Sussex Police and Environmental Health, the proposal is considered to be acceptable and is not anticipated to give rise to unreasonable disturbance, noise or cooking odour nuisance to residents that could not be suitably addressed through the imposition of planning conditions. There are numerous examples of cafes and restaurants around the Town Centre that have residential use of the floors above, and the conditions recommended to be attached to this proposal are considered to provide adequate safeguard to protect residential amenity in this case.

#### f) Waste Management

Policy DM3 of Hastings Development Management Plan requires adequate space for storage of waste and its removal. There has been objection received raising concern at lack of waste storage space and residents ask how waste containers would be lifted from basement level. The submitted plans propose a waste storage room at lower ground level directly below the kitchen. Existing ground floor plan 736-01 shows a lift and this is shown on the proposed basement floor plan and so it is anticipated that waste stored in the proposed lower ground waste storage room could be carried down a short flight of steps to the lift area and then be lifted to ground floor street level. Full details of waste management and collection would be imposed by planning condition to safeguard local amenity and highway safety.

## 6. Conclusion

For the reasons set out above the proposal is considered to be acceptable. The proposed restaurant in A3 Use will not be harmful to the character of the conservation area. It will be situated on the Seafront in a prime tourism location and the proposal is considered to complement the nearby tourist attractions in compliance with policies to support the growth and development of the tourist industry in Hastings. The loss of the existing garage is not considered to be significant as it is not used by residents of the flats and the lack of private off-street parking for the proposed A3 use is not considered to be a significant issue in this sustainable town centre location well served by public transport and with the large Seafront car parks available for tourists to park. Residential amenity for the flats above may be suitably addressed by the imposition of planning conditions as for many other residential dwellings located above restaurants and cafes in the town centre. Commercial waste would be stored in the lower ground floor level and a planning condition would be imposed for further details of waste management and collection. The application is therefore recommended for approval, subject to conditions.

These proposals comply with the Development Plan in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004 which states:

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

The Human Rights considerations have been taken into account fully in balancing the planning issues.

## 7. Recommendation

**Grant Full Planning Permission subject to the following conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
  
736-01, 736-002C, 736-03A, 736-04A, 736-05A, 736-06A, 736-07A, 736-08A , 736-010, and 736-011.
3. The A3 restaurant hereby approved shall not be open to customers until a scheme of suitable sound insulation has been submitted to and agreed in writing by the Local Planning Authority and the approved details have been carried out to the satisfaction of the Local Planning Authority. The submitted scheme shall ensure that noise and music arising from the premises shall be not exceed 45db between the hours of 07:00-22:00 and not exceed 35db after 22:00. In assessing this noise level, noise shall include that arising from all mechanical and electrical equipment used by the premises, as well as noise arising from customers in the premises.
4. Notwithstanding the details submitted, before the restaurant hereby approved is first open to customers a detailed scheme of any external extraction, and duct / ventilation system(s) (for heating plant system, toilet ducts, any proposed kitchen cooking / food preparation extraction system to the outside and ventilation/ extract ventilation to outside for waste storage facility), and maintenance of each, shall be submitted to and approved in writing by the Local Planning Authority. The system(s) as approved must be implemented before the restaurant is first opened to customers.
5. Prior to the restaurant being open to customers full details of the design of the proposed open grille restaurant security shutters and colour shall be submitted to and approved in writing by the Local Planning Authority and thereafter the security shutters as approved shall be installed before the restaurant is opened to customers.
6. Before the restaurant hereby approved is first open to customers a detailed scheme for the storage, management and collection of commercial waste shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the agreed scheme shall be implemented at all times unless otherwise first agreed in writing with the Local Planning Authority.
7. The premises shall not be used except between the following hours:-  
  
12:00 noon - 22.30 Monday - Sunday inclusive.
8. Deliveries and private waste collections to and from the premises shall not

take place outside the hours of 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturday and at no time on Sundays or Public/Bank Holidays.

### **Reasons:**

1. This condition is imposed in accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in the interests of proper planning.
3. To control potential noise nuisance in compliance with policy DM6 of Hastings Development Management Plan, and to protect the amenity of neighbouring properties.
4. To protect the amenity of neighbouring residential properties.
5. To protect the character of the conservation area and in accordance with Supplementary Planning Document (SPD) - Shopfronts and Advertisements.
6. To safeguard local amenity and in the interests of Highway Safety.
7. To safeguard the amenity of adjoining residents and as advised by East Sussex Police.
8. To protect residential amenity.

### **Notes to the Applicant**

1. Failure to comply with any condition imposed on this permission may result in enforcement action without further warning.
2. Statement of positive engagement: In dealing with this application Hastings Borough Council has actively sought to work with the applicant in a positive and proactive manner, in accordance with paragraph 38 of the National Planning Policy Framework.

#### **3. FOOD SAFETY**

The applicant is strongly advised to contact the Environmental Health Team before services, fixtures and fittings etc. are installed for advice on satisfying the requirements of food safety law.

The Food Business Operator will be required to register the establishment with the Local Council 28 days prior to opening. The registration form can be found online at

[http://www.hastings.gov.uk/environmentalhealth/food\\_safety/businesses/foodpacks/caterers/](http://www.hastings.gov.uk/environmentalhealth/food_safety/businesses/foodpacks/caterers/)

#### **HEALTH AND SAFETY**

The applicant is strongly advised to contact the Environmental Health Division before services, fixtures and fittings etc. are installed for advice on

satisfying the requirements of Health and Safety Law.

4. Signage for the restaurant hereby approved is likely to require an application for advertisement consent. Applications for express advertisement consent may be made on-line using the following link:  
[https://www.hastings.gov.uk/planning/advice/planning\\_advertising/](https://www.hastings.gov.uk/planning/advice/planning_advertising/)
5. A3 restaurant use will require a premises licence under the Licensing Act 2003 to authorise the sale by retail of Alcohol for consumption on the premises.

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### **Officer to Contact**

S Prior, Telephone 01424 783275

### **Background Papers**

Application No: HS/FA/18/00850 including all letters and documents